

UNITED STATES OF AMERICA

BEFORE THE NATIONAL LABOR RELATIONS BOARD

EXCALIBUR CHARTER SCHOOL, INC.

and

Case 28-CA-023039

NATHANIEL WICKE

NOTICE TO SHOW CAUSE

On January 26, 2011, Administrative Law Judge Joel P. Biblowitz issued a decision in this case. The General Counsel filed exceptions and a supporting brief. The Respondent filed cross-exceptions with supporting argument, and the General Counsel filed an answering brief.

On March 29, 2018, the Board issued a decision, reported at 366 NLRB No. 49, ruling on the exceptions to some of the complaint allegations, but it severed and retained for future resolution allegations involving the Respondent's work rules.<sup>1</sup> In the underlying decision, the judge applied the "reasonably construe" prong of the Board's decision in *Lutheran Heritage Village-Livonia*, 343 NLRB 646 (2004)(*Lutheran Heritage*), when addressing these allegations. Recently, the Board overruled the *Lutheran Heritage* "reasonably construe" test and announced a new standard that applies retroactively to all pending cases. *The Boeing Co.*, 365 NLRB No. 154, slip op. at 14-17 (2017).

Accordingly, the Board hereby issues the following notice to show cause why this proceeding should not be remanded to the judge for further proceedings in light of *Boeing*, including, if necessary, the filing of statements, reopening the record, and issuance of a supplemental decision.

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<sup>1</sup> On May 9, 2018, the Board issued an erratum to correct inadvertent mistakes in its decision.

**NOTICE IS GIVEN** that any party seeking to show cause why this case should not be remanded to the administrative law judge must do so in writing, filed with the Board in Washington, D.C., on or before October 29, 2018 (with affidavit of service on the parties to this proceeding). Any briefs or statements in support of the motion shall be filed on the same date.

Dated, Washington, D.C., October 15, 2018.

By direction of the Board:

/s/ Roxanne L. Rothschild

Executive Secretary